

# Exhibit 2

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

IN RE PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESale PRICE  
LITIGATION  
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THIS DOCUMENT RELATES TO:  
THE TRACK II SETTLEMENT,  
MEDICARE PART B

MDL No. 1456

CIVIL ACTION: 01-CV-12257-PBS

**DECLARATION OF  
KATHERINE KINSELLA**

I, Katherine Kinsella, being duly sworn, hereby declare as follows:

1. I am President of Kinsella Media, LLC ("KM"), an advertising and legal notification firm in Washington, D.C. that specializes in the design and implementation of class action and bankruptcy notification programs to reach unidentified putative class members or claimants primarily in consumer and mass tort litigation. My business address is 2120 L Street, NW, Suite 860, Washington, D.C. 20037. My telephone number is (202) 686-4111.
2. I submit this declaration in connection with the class action Notice Program in *In Re Pharmaceutical Industry Average Wholesale Price Litigation*, Settlement of Medicare Part B, pending in the United States District Court for the District of Massachusetts.
3. I have previously submitted my firm's credentials for other Settlements that are part of *In Re Pharmaceutical Industry Average Wholesale Price Litigation*. Please see *In Re Pharmaceutical Industry Average Wholesale Price Litigation*, Settlements of all Massachusetts and Non-Massachusetts Class Actions concerning AstraZeneca Classes 2 & 3 and *In Re Pharmaceutical Industry Average Wholesale Price Litigation*, BMS Settlement.

4. KM was retained to help design and implement the Notice Program for the proposed settlements of the above-captioned action.
5. This declaration is based upon my personal knowledge and upon information provided by Class Counsel and my staff. The information is of a type reasonably relied upon in the fields of advertising, media, and communications.

#### **Notice Program Overview**

6. The objective of the Notice Program is to provide adequate notice of the Proposed Settlement, which affect Class Members who are defined as follows:

All natural persons in the United States who, from January 1, 1991 through January 1, 2005, made, or incurred an obligation to make, any portion of a Medicare Part B co-payment for a Class Drug manufactured, marketed, sold, or distributed by a Released Company.

7. The following four-part Notice Program will be implemented:
  - a) Direct notice certain identifiable Class Members;
    - i. Per the Court's January 7, 2011 order, direct mail notice will be sent to approximately 2.2 million Medicare Part B Beneficiaries identified in the CMS data as having been administered a Class A drug.
  - b) Broad notice through the use of paid media to Class Members;
  - c) Notice through a national earned media campaign;
  - d) Electronic notice through an informational Internet website.

#### **Measuring Effectiveness of Notice Program**

8. The two basic measurements used to measure media penetration of a targeted demographic and thus ensure the adequacy of a notice program are *reach* and *frequency*. *Reach* is the estimated percentage of a target audience reached one or more times by a

media vehicle. *Frequency* is the estimated average number of opportunities the audience member has to see the notice.

9. The comprehensive paid media program, which includes print, television, and Internet, will delivered the following estimated reach and frequency measurements:

a) An estimated 92.8% of Adults 65+ will be reached through print and television with an average estimated frequency of four times, delivering 137,314,000 gross impressions. As estimated 34,373,000 will have an opportunity to see the Notice.

10. This reach is in addition to the reach achieved by the Direct Notice Program.

**Conclusion**

11. It is my opinion that the reach of our target audiences and the number of exposure opportunities to the notice information is the best notice practicable under the circumstances, and it is consistent with the standards employed by KM in notification programs designed to reach unidentified members of settlement groups or classes. The Notice Program is fully compliant with Rule 23 of the Federal Rules of Civil Procedure.

I declare under penalty of perjury that the foregoing is true and correct. If called as a witness, I could and would competently testify thereto.



Katherine Kinsella

February 1, 2011

Date